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**STAFF REVIEW**

**Variance Case #:** V2014-46

**Legistar #:** 20140968

**City Council Hearing:** Wednesday, November 12, 2014 – 7:00 p.m.

**Property Owner:** Justin Story  
Mesquite Creek Development, Inc.  
3225 Cumberland Blvd, Suite 100  
Atlanta, GA 30339

**Applicant:** RaceTrac Petroleum, Inc.  
% Parks F. Huff  
Sams, Larkin, Huff & Balli  
Attorneys at Law  
376 Powder Springs Street  
Suite 100  
Marietta, GA 30064-3448

**Address:** 2390 (a/k/a 2400), 2466 and 2484 Delk Road

**Land Lot:** 07990      **District:** 16      **Parcels:** 0380, 0050, 0090

**Council Ward:** 1      **Existing Zoning:** CRC (Community Retail Commercial)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to allow for an existing nonconforming use (pylon) sign to remain after upgrades to the property are made. [§714.06 (A)]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**View from west of 2466 Delk Road**



**View from east of 2466 Delk Road**

**Staff Review:**

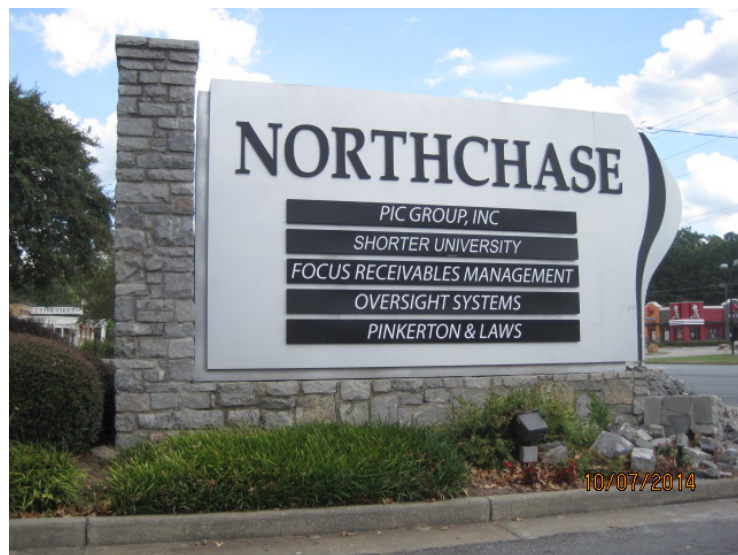
City Council approved a major revision to the Sign Ordinance in 2002, and since that time, pylon signs have been prohibited, and monument style signs have been required for all new developments. The applicant, RaceTrac Petroleum, is requesting a variance from the Sign Ordinance that would allow the existing 150 square foot pole sign to remain once construction for the new prototype store is complete. RaceTrac is preparing plans to build one of its new prototype stores to replace of the existing store. RaceTrac has already acquired additional property from the adjacent hotel property and construction is scheduled to begin within the next year. The existing sign style is more aligned to a miniature billboard than to the monument type signs that have been constructed with many of the new prototype stores.

The subject property located at 2400, 2466 and 2484 Delk Road is zoned CRC (Community Commercial Retail) and is 2.871 acres in total size. The adjacent properties to the east, west and south are zoned OI (Office Institutional), and the property to the north across Delk Road is zoned CRC as well.

According to the Zoning Ordinance, when renovation of the primary structure exceeding 50% of its replacement cost, the entire site is required to come into compliance with the City of Marietta Sign Ordinance. Since the existing site is to be completely demolished, and a new RaceTrac built; then the regulations require that a new conforming sign must be included in the new development. Below is the new monument style sign that RaceTrac is building at some of its other locations:



In addition, new businesses in the area along Delk Road have recently erected new signs that have complied with the City's sign ordinance, including the following:



The following signs received minor variances, but met the requirement for monument style signs:



City Council has considered similar requests over the last few years:

- V2009-08 – 495 South Marietta Parkway: QuikTrip requested variances to allow a new monument sign that was slightly taller and with more area than allowed under the sign regulations. (shown above)
- V2009-14 – 1860 Cobb Parkway South: Volkswagen Group of America requested a variance that would have allowed a pylon sign to remain on the parcel after the site was completely redeveloped. Visibility of the sign was the main issue, however, this variance was **denied** and a new monument sign was constructed.
- V2010-02 – 2371 Delk Road: McDonalds and Howard Johnson received variances to allow a shared sign with increased area and height to provide better visibility along Delk Road to their monument sign. (shown above)
- V2012-10 – 1051 Canton Road: BRE/ESA Properties, LLC, also known as Extended Stay America, Inc. requested variances for a freestanding pylon sign at the hotel entrance located at 1051 Canton Road. The applicant requested the variance due to the fact that a GDOT project took the applicant's pylon sign that is located along Canton Road. This variance was approved stipulations. A key difference in that case is the fact the site was not redeveloped.
- V2012 – 25 – 1137 Powder Springs Street: David C. Kirk, an attorney with Troutman Sanders LLP representing Walmart, is requesting variances for a sign for the Bellemeade Shopping Center in which WalMart Fresh Market was becoming a tenant in an existing shopping center. This variance was approved, however the sign style appears more in line with a monument sign.



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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***This request for a variance was originally scheduled to be heard on October 8, 2014 but the applicant requested that it be tabled to the November 12, 2014 City Council meeting.***